

APR 14 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

DAVID JOHN CHRISTENSEN,

Petitioner - Appellant,

v.

IVAN C. BARTOS,

Respondent - Appellee.

No. 05-15805

D.C. No. CV-03-02008-DGC

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
David G. Campbell, District Judge, Presiding

Submitted April 5, 2006^{**}

Before: HAWKINS, McKEOWN and PAEZ, Circuit Judges.

Arizona state prisoner David John Christensen appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 petition as time-barred.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We have jurisdiction pursuant to 28 U.S.C. § 2253. We review de novo, *Nardi v. Stewart*, 354 F.3d 1134, 1140 (9th Cir. 2004), and we affirm.

Christensen's Motion to Attach Exhibits to Petitioner's Optional Reply to Respondent's Answering Brief is granted.

Christensen contends that he is entitled to equitable tolling because counsel failed to notify him that his state petition for post-conviction relief had been denied by the Arizona Supreme Court. Counsel's alleged failure does not qualify as an extraordinary circumstance warranting equitable tolling. *See Miranda v. Castro*, 292 F.3d 1063, 1067-68 (9th Cir. 2002); *Frye v. Hickman*, 273 F.3d 1144, 1146 (9th Cir. 2001).

AFFIRMED.